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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,414	06/26/2003	Ralph D'Agosta	02811-P0005C	5674
24126	7590	05/26/2006	EXAMINER	
ST. ONGE STEWARD JOHNSTON & REENS, LLC 986 BEDFORD STREET STAMFORD, CT 06905-5619			LEJA, RONALD W	
			ART UNIT	PAPER NUMBER
			2836	

DATE MAILED: 05/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/606,414

Applicant(s)

D'AGOSTA, RALPH

Examiner

Ronald W. Leja

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Rodriguez (2,861,170).

Rodriguez discloses a portable water heating system, comprising a housing (15), a water inlet (29) disposed on the outside of the housing, a first hose nipple (29b) adapted to connect a water supply (23), a lining adapted to protect the inside of the housing from corrosion (Col. 2, lines 4-5), a heating element (17), a water outlet disposed on the outside of the housing and a second hose nipple (29d) attached to the water outlet. Thermostat (66) is set to a predetermined point.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rodriguez in view of Alston et al. (4,947,025).

Rodriguez discloses that the device is supported by pipe (23) and does not appear to disclose the use of wheels, handle or mounting interface. However, Alston et al. teach the use of wheels (Claim 4) and handle (Claims 5, 6). It would have been

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obvious to incorporate the teachings of Alston et al. as a means to offer ease in moving the portable water heater from location to location.

Claims 3, 7, 8 and 12-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rodriguez in view of Alston et al. and further in view of Winter et al. (6,628,894).

Claims 3 and 12 are drawn to the use of ground fault protection and high temperature shut-off. Rodriguez discloses use of a thermostat but actually relies upon the thermostat as a safety overtemperature device which shuts-off the heating circuit (30) when the temperature rises to a predetermined point. Alston et al. teach the use of thermostatic control. It would have been obvious to incorporate the teachings of Alston et al. as a means to offer the ability to adjust the temperature of the water in accordance with the desires of the consumer, for the changing seasons of the weather and as a means to increase design application. See Figs 1, 2 and Col. 2, line 62 thru Col. 3, line 42. Winter et al. teach the use of ground fault protection. It would have been obvious to incorporate the teachings of Winter et al. as a means to enhance safety to the consumer and increasing applications to more hostile environments, by ensuring safety for the user. Winter et al. further teach the use of wall mounting (for Claim 7). It would have been obvious to utilize mounting means to help place the system at a location wherein it is most desired and so that the system is secured for use, thereby increasing applications for the end-product.

Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rodriguez in view of Nelson (4,974,551).

These set of claims are drawn to use of a double-walled housing. Nelson teaches the use of double-walls in a water heating system (see Fig. 8 and Col. 13, lines

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34 et seq.). It would have been obvious to incorporate the teachings of Nelson as a means to offer more durability to the design by protection to the interior tank, but also to offer a means to help keep the water in the tank warm longer by insulating the tank from the outside environment, thereby increasing efficiency of the system.

Applicant's arguments have been fully considered and are not persuasive. Therefore, the rejections above, have been maintained from the Office Action of 9/6/2005. The bulk of Applicant's arguments revolve around the interpretation that Rodriguez (2,861,170) does not disclose or suggest a "housing adapted to directly hold water and to transport water held therein". Applicant relies upon such an interpretation since Rodriguez depends upon a connection to a cold water source for a supply of water and recites that the connection can support the device, thereby not being portable. This line of argument has no merit since the instant Application also has a water inlet with a "first hose nipple adapted to connect to a water source". Rodriguez discloses a tank (15) which can hold around 2 gallons; the tank has a layer of heat-insulating material to retain heat of its water content and there is contemplated the use of a plug on the bottom of the tank for cleaning out its interior (see Col. 2, lines 3-11). Column 1, lines 26-27 recite that the design is for portable shower use. Therefore it is the opinion of the Examiner that Rodriguez indeed meets the added claim language of "the housing **adapted** to be portable to store and transport water received therein". As far as the arguments drawn to Claim 2, it is the opinion of the Examiner that Rodriguez meets the instant claim language "comprising an adjustable thermostatic control controlling the output of the heating element". Rodriguez states in Col. 2, lines 62-70, that the thermostat (66) **acts to automatically open the circuit of the heating coil (30)** whenever the **temperature rises** to a

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predetermined point. This in the broad reasonable interpretation is an adjustable control (since threshold is predetermineable) for the output of the heating element (opening the circuit leads to no output) as merely required by the instant Claim 2 language.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald W. Leja whose telephone number is (571)272-2053. The examiner can normally be reached on Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Sircus can be reached on (571)272-2800. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Ronald W. Leja
Primary Examiner
Art Unit 2836

rwl
May 22, 2006

